

TO DIVISION

NO PROTEST RECEIVED
Release copies to District

Date **18 JAN 1987**

1 1987

UNIT DIRECTOR
INTERNAL REVENUE SERVICE
INTERNAL UNIT

Surname

RIN: [REDACTED]

Key District: Cincinnati, OH

23 OCT 1986

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The reasons for our conclusions are explained below.

The purposes for which [REDACTED] is organized is to promote, market and administer prepaid employee, group benefit programs for vision services provided by ophthalmologists, optometrists, and opticians, such programs to be established through contracts between employers and the Corporation. The costs of such programs shall be borne by the employer on an insured or self-insured basis. The Corporation shall administer the programs or may contract with one or more other parties to administer some or all of such programs for the Corporation. In addition, the Corporation shall establish a panel of providers to provide the vision services required under the programs and shall establish such peer review procedures as may be deemed necessary or appropriate by the Board of Directors, or any duly established Committee thereof, of the Corporation.

You have developed a new, open-panel vision care network of ophthalmologists, optometrists, and opticians to offer your services with quality, value and convenience. Among your benefits are: freedom of choice in the selection of a provider and eyewear based on individual needs and resources, over [REDACTED] participating locations from which to choose and panel listings distributed to all employees. In addition, participating providers assure the employees less "up front" costs, active peer review committees of each of the [REDACTED] eye care specialists to enhance quality of care, and 60-day prescription protection and no-charge adjustments for the life of the eyewear through participating providers.

You have developed one type of contract which will be signed by the group purchaser. It will require that the purchaser pay for all claims plus a monthly administrative fee. Claim forms are to be handled by providers in order to conduct a more efficient billing and claims processing system.

Although your stated purpose is to promote the establishment of vision care benefit programs by employers for their employees, you are not an insurance company nor does you assume any risk of providing benefits. Your primary activity will be to provide vision or eye care services to persons enrolled in prepaid health service plans. There is no provision for individual membership or for free care of the poor, or even emergency treatment of the public. You will enter into contracts, for a fee, with the participating organizations for providing your services.

Section 501(c)(4) of the Code provides exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Revenue Ruling 86-98, 1986-33 C.B. 5, provides that an individual practice association that provides health services through written agreements with health maintenance organizations does not qualify for exemption from federal income tax as a social welfare organization under section 501(c)(4) of the Code or as a business league under section 501(c)(6).

In Consumer-Farmer Milk Cooperative, Inc. v. Commissioner of Internal Revenue, 186 F.2d 68, the court denied exemption under section 501(c)(4) because the organization's purpose is primarily to benefit its members economically and only incidentally to further larger public welfare.

The determination of whether an organization qualifies for exemption from federal income tax under section 501(c)(4) of the Code is a factual question. The activities of the organization must address a bona fide community need, and should not duplicate services or facilities provided by commercial entities. In addition, the activities of the organization should not confer economic advantages on its members.

Your primary activity of providing a pool of eye physicians and other vision care providers to plan subscribers and compensating such participating physicians and providers for their normal and customary fees is carrying on a business with the general public in a manner similar to organizations which are conducted for profit. Such activity is similar to the operations of a commercial insurance carrier. See Rev. Rul. 86-98, supra.

Your primary activity also confers economic benefits on members because your activity serves as an alternative method of direct billing and collection of fees from patients by member physicians and other health providers through which they can maximize their income.

Since your primary activity is carrying on a business with the general public similar to organizations operated for profit and you are operated in a manner that primarily confers economic benefits on members and only incidentally furthers larger public welfare, you are not promoting social welfare within the meaning of section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted in duplicate within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Cincinnati, Ohio. Thereafter, any questions about your federal income tax status should be addressed to that office.

If you correspond with us concerning this matter, you will expedite our receipt of your communication by including the following information on the envelope as part of our address: Attn: [REDACTED], Room [REDACTED]. These symbols do not refer to your case but rather to its location

Sincerely yours,

[REDACTED]
Chief, Exempt Organizations
Rulings Branch

cc: DD, Cincinnati
Attn: EO Group

cc: [REDACTED]
Attn: [REDACTED]